

REMARKS

Claims 1-3, 8-10, 18-20, and 27-30 are pending, claims 4-7, 11-17, and 21-26 having been withdrawn by the Examiner pursuant to 37 C.F.R. 1.142 § (b), and cancelled by applicants' Amendment A of 01 February 2002.

Claims 1-3, 8-10 and 27 and 28 are indicated as "allowed" by the Examiner (*see* Office Action of 21 October 2003). Applicants thank the Examiner for considering applicants' Amendment C of 06 June 2003, and for withdrawing, in view thereof, the claim objections with respect to claims 27 and 28 (*Id.* at page 2, paragraph 3).

Applicants acknowledge that the Examiner maintains the rejection of claim 18 as being anticipated, under 35 U.S.C. § 102(e), by Hudziak (U.S. Patent No. 6,399,063), and that, accordingly, claims 19, 20, 29 and 30 that depend from claim 18 are objected to, but would be allowable if written in independent form (*Id.* at page 3, under "Conclusion"). Alternatively, dependent claims 19, 20, 29 and 30 would be allowable if claim 18 is allowed.

Applicants have amended claim 18 herein below to bring it into allowable form, based on the Examiner's comments (*Id.* at pages 2-3, paragraph 4).

Finally, applicants have made minor non-substantive, clarifying amendments to allowed dependent claims 3 and 10 to correct the grammar.

No new matter has been added.

FORMALITIES

Applicants have previously submitted final formal drawings (Figures 1-7) in response to the Draftsperson's comments. No new matter has been added.

Applicants have non-substantively amended allowed dependent claims 3 and 10 to delete "of" after the word "comprising" in each case, to correct grammar. No new matter has been added.

Rejection under 35 U.S.C. § 102(e)

The Examiner maintained the rejection of independent claim 18, under 35 U.S.C. § 102(e,) as being anticipated by **Hudziak** (U.S. Patent 6,399,063; issued 04 June 2002; effective filing date of 25 January 1988) (*Id*, at page 2, paragraph 4).

Specifically, the Examiner asserts that “Hudziak discloses pharmaceutical compositions comprising an antibody to HER-2 and a second agent, such as a cytokine (TNF-alpha, TNF-beta, IL-2, Interferon-gamma; see col. 7, lines 3-61; claims 8-13),” thereby allegedly disclosing the instant claimed pharmaceutical compositions in view of the fact that applicants’ claim 18 “proviso language does not limit the second agent to either the agent of ‘a’ or ‘b’” (*Id*, at page 3).

Applicants have made a further clarifying amendment to claim 18, which now recites “with the proviso that where the composition comprises the monoclonal antibody it also comprises at least one of the agents of (a) or (b).”

Support for this amendment is found in the originally filed Specification at, *inter alia*, page 9-10, under “Pharmaceutical Composition.” No new matter has been added.

Additionally, applicants have non-substantively amended claim 18 by substituting, within the Markush description (b) the word “is” for the word “are,” to correct the grammar.

Applicants, therefore, respectfully request withdrawal of the Examiner’s § 102(e) rejection with respect to currently amended independent claim 18 in view of Hudziak.

CONCLUSION

In view of the foregoing amendments and remarks, applicants respectfully request allowance of claims 18, (Currently amended), 19-20 (both Previously amended), and claims 29 and 30 (both Previously added), in addition to the *previously allowed* claims 1 (Previously amended), 2 (Previously amended), 3 (Currently amended), 8 (Previously amended), 9 (Previously amended), 10 (Currently amended), and 27 and 28 (both Previously added).

The Examiner is encouraged to phone applicants’ attorney, Barry L. Davison, to resolve any outstanding issues and expedite allowance of this application.

No new matter has been added.

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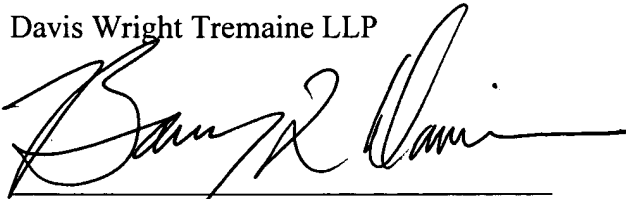
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Entry of the Amendment is respectfully requested.

Respectfully submitted,

Davis Wright Tremaine LLP

A handwritten signature in black ink, appearing to read "Barry L. Davison", written over a horizontal line.

Barry L. Davison, Ph.D., J.D.

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